Chapter B6: Other Administrative Requirements

Introduction

This chapter presents several other analyses in support of the Final Section 316(b) Phase II Existing Facilities Rule. These analyses address the requirements of Executive Orders and Acts applicable to this rule.

Chapter Contents

B6-1 Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The order defines a "significant regulatory action" as one that is likely to result in a rule that may:

- have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; or
- create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; or
- materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, EPA determined that this final rule is a "significant regulatory action." As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations are documented in the public record.

B6-2 Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 11, 1994) requires that, to the greatest extent practicable and permitted by law, each Federal agency must make achieving environmental justice part of its mission. E.O. 12898 provides that each Federal agency must conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures such programs, policies, and activities do not have the effect of (1) excluding persons (including populations) from participation in, or (2) denying persons (including populations) the benefits of, or (3) subjecting persons (including populations) to discrimination under such programs, policies, and activities because of their race, color, or national origin.

Today's final rule requires that the location, design, construction, and capacity of cooling water intake structures (CWIS) at Phase II existing facilities reflect the best technology available for minimizing adverse environmental impact. For several reasons, EPA does not expect that this final rule will have an exclusionary effect, deny persons the benefits of the participation in a program, or subject persons to discrimination because of their race, color, or national origin.

In fact, because EPA expects that this final rule will help to preserve the health of aquatic ecosystems located in reasonable proximity to Phase II existing facilities, it believes that all populations, including minority and low-income populations, will benefit from improved environmental conditions as a result of this rule. Under current conditions, EPA estimates that over 1.5 billion fish (expressed as age 1 equivalents) of recreational and commercial species are lost annually due to impingement and entrainment at in-scope Phase II facilities. Under the final rule, more than 0.5 billion individuals of these commercially and recreationally sought fish species (age 1 equivalents) are estimated to survive and join the fishery each year. These additional fish will provide increased opportunities for subsistence anglers to increase their catch, thereby providing some benefit to low income households located near regulation-impacted waters.

The greatest benefits from this rule may be realized by populations that fish for subsistence purposes. While the extent of subsistence fishing in the U.S. or in individual States and cities is not generally known, it is known that Native Americans and low income Southeast Asians are the major population subgroups participating in subsistence fishing. However, Native Americans fishing on reservations are not required to obtain a license, so records of the number of Native Americans fishing on reservations are not available. Similarly, Southeast Asians often do not purchase licenses and therefore the extent of their participation in subsistence fishing is unknown.

Due to the lack of data, EPA uses simplifying assumptions to estimate the number of subsistence fishermen. In some past analyses, EPA assumed that subsistence fishermen constitute five percent of the total licensed population. This assumption is, however, likely to understate the number of recreational fishers, because although fishing licenses may be sold to subsistence fishermen, many of these individuals do not purchase fishing licenses. Therefore, in more recent analyses EPA has assumed that the number of subsistence fishermen would constitute an additional five percent of the licensed fishing population. Using this 10 percent assumption, the number of subsistence fishermen that may benefit from increased fish populations as a result of this rule is substantial.

Based on estimates of the number of anglers calculated from the *1996 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation* (U.S. DOI, 1997), the average in-scope facility has a subsistence population of nearly 14,000 people living within 50 miles of the facility. EPA estimated average subsistence populations by waterbody type. The results indicate that, although the estimated subsistence fishing population comprises a small percentage of the total population, a significant number of people may engage in subsistence fishing within the vicinity of in-scope facilities. The results of this analysis are presented in Table B6-1.

Table B6-1: Estimated Subsistence Fishing Population within 50-Mile Radius of In-Scope Facilities

Region	Number of In-Scope Facilities	Average 2000 Population (millions)[a]	Average Estimated Subsistence Fishing Population[b]
California	20	6.5	28,000
North Atlantic	22	5.1	13,000
Mid Atlantic	44	10.3	8,000
South Atlantic	16	1.5	18,000
Gulf of Mexico	24	1.9	14,000
Great Lakes	56	2.8	11,000
Hawaii	3	1.8	17,000
Interior U.S.	358	1.5	11,000
All In-Scope Facilities (Unweighted)	**543**	**2.7**	**14,000**

[a] Total population living withing 50 miles.
[b] Estimated as 10% of total estimated anglers living within 50 miles of an in-scope facility. Rounded to nearest thousand.

Source: Angler estimates calculated from U.S. DOI, 1997; U.S. EPA analysis, 2004.

Because the estimates presented in Table B6-1 are estimates that are not based on actual subsistence fishing data, they may tend to underestimate or overestimate the actual levels of subsistence fishing within a given waterbody type. As a secondary analysis, EPA calculated the poverty rate and the percentage of the population classified as non-white, Native American, and Asian for populations living within a 50-mile radius of each of the 543 in-scope facilities for which survey data are available.

The results of this secondary analysis, presented in Table B6-2, show that the populations affected by the in-scope facilities have poverty levels and racial compositions that are quite similar to the U.S. population as a whole. In-scope facilities located on oceans and non-gulf estuaries tend to have significant Asian populations. As such, individuals in these areas who rely on subsistence fishing may benefit greatly from increases in fish populations resulting from changes mandated by the rule. However, taken as a whole, a relatively small subset of the facilities are located near populations with poverty rates (23 of 543, or 4.2%), non-white populations (105 of 543, or 19.3%), Native American populations (33 of 543 or 6.1%), or Asian populations (42 of 543 or 7.7%), that are significantly higher than national levels.

Based on these results, EPA does not believe that this rule will have an exclusionary effect, deny persons the benefits of the National Pollution Discharge Elimination System (NPDES) program, or subject persons to discrimination because of their race, color, or national origin. To the contrary, it will increase the number of fish and other aquatic organisms available for subsistence, commercial, and recreational anglers of all races, color, and natural origin.

Table B6-2: Demographics of Populations within 50-Mile Radius of In-Scope Facilities

Waterbody Type	Number of In-Scope Facilities	Average 1998 Poverty Rate	Average 2000 Percent of Population			Number of Facilities with Levels >= 1.5 Times the U.S. Level			
			Non-white[a]	Native American[b]	Asian[c]	Poverty Rate	Non-White Pop	Native American Pop	Asian Pop
North Atlantic	22	9.3%	14.8%	0.7%	3.6%	-	1	-	2
Mid Atlantic	44	11.6%	34.1%	0.8%	6.1%	-	32	-	22
South Atlantic	16	13.2%	25.5%	0.7%	2.0%	-	3	-	-
Gulf of Mexico	24	14.4%	24.1%	0.9%	2.5%	2	6	-	-
California	20	13.4%	33.6%	1.9%	12.6%	-	12	1	15
Great Lakes	56	11.2%	18.7%	1.2%	2.2%	-	4	5	-
Hawaii	3	9.7%	64.8%	1.8%	61.6%	-	3	-	3
Interior U.S.	358	12.8%	17.4%	1.7%	1.7%	21	44	27	-
All In-Scope Facilities (Unweighted)	**543**	**12.5%**	**20.1%**	**1.5%**	**3.0%**	**23**	**105**	**33**	**42**
U.S.	**---**	**12.7%**	**22.9%**	**1.5%**	**4.2%**	**---**	**---**	**---**	**---**

[a] Non-white population defined as any person who did not indicate their race to be "White" either alone or in combination with one or more of the other races listed.

[b] Defined as any person who indicated their race to be "Native American" or "Native Alaskan" either alone or in combination with one or more of the other races listed.

[c] Defined as any person who indicated their race to be "Asian" either alone or in combination with one or more of the other races listed.

Source: Average poverty rate compiled from U.S. DOC, 1998; population estimates compiled from U.S. DOC, 2000.

B6-3 Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be "economically significant" as defined under Executive Order 12866 and (2) concerns an environmental health or safety risk that EPA has reason to believe might have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health and safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This

final rule is an economically significant rule as defined under Executive Order 12866. However, it does not concern an environmental health or safety risk that would have a disproportionate effect on children. Therefore, it is not subject to Executive Order 13045.

B6-4 Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." Policies that have federalism implications are defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments or unless EPA consults with State and local officials early in the process of developing the regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the regulation.

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. EPA expects an annual burden of 104,606 hours with total average annual cost of $4.8 million for States to collectively administer this rule during the first three years after promulgation. EPA has identified 62 Phase II existing facilities that are owned by State or local government entities. The estimated average annual compliance cost incurred by these facilities is $372,000 per facility.

The final national cooling water intake structure requirements will be implemented through permits issued under the NPDES program. Forty-five States and territories are currently authorized pursuant to section 402(b) of the CWA to implement the NPDES program. In States not authorized to implement the NPDES program, EPA issues NPDES permits. Under the CWA, States are not required to become authorized to administer the NPDES program. Rather, such authorization is available to States if they operate their programs in a manner consistent with section 402(b) and applicable regulations. Generally, these provisions require that State NPDES programs include requirements that are as stringent as Federal program requirements. States retain the ability to implement requirements that are broader in scope or more stringent than Federal requirements. (See section 510 of the CWA.)

EPA does not expect the final Phase II regulation to have substantial direct effects on either authorized or nonauthorized States or on local governments because it will not change how EPA and the States and local governments interact or their respective authority or responsibilities for implementing the NPDES program. This rule establishes national requirements for Phase II existing facilities with cooling water intake structures. NPDES-authorized States that currently do not comply with the final regulations based on this rule might need to amend their regulations or statutes to ensure that their NPDES programs are consistent with Federal section 316(b) requirements. (See 40 CFR 123.62(e).) For purposes of this rule, the relationship and distribution of power and responsibilities between the Federal government and the State and local governments are established under the CWA (e.g., sections 402(b) and 510); nothing in this rule alters that. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

Although section 6 of Executive Order 13132 does not apply to this rule, EPA did consult with State governments and representatives of local governments in developing definitions and concepts relevant to the section 316(b) regulation and this final rule:

- During the development of the proposed section 316(b) rule for new facilities, EPA conducted several outreach activities through which State and local officials were informed about the Phase II rulemaking effort. These officials then provided information and comments to the Agency. The outreach activities were intended to provide EPA with feedback on issues such as adverse environmental impact, BTA, and the potential cost associated with various regulatory alternatives.

- EPA has made presentations on the section 316(b) rulemaking effort in general at eleven professional and industry association meetings. EPA also conducted two public meetings in June and September of 1998 to discuss issues

related to the section 316(b) rulemaking effort. In September 1998 and April 1999, EPA staff participated in technical workshops sponsored by the Electric Power Research Institute on issues relating to the definition and assessment of adverse environmental impact. EPA staff have worked with numerous States such as New York, New Jersey, California, Rhode Island, and Massachusetts and regions such as Region 1 and Region 9. EPA further organized a meeting of technical experts (May 23, 2001) and a Symposium on Technologies for Protecting Aquatic Organisms from Cooling Water Intake Structures (BTA symposium, May 6-7, 2003).

- EPA met with the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA) and, with the assistance of ASIWPCA, conducted a conference call in which representatives from 17 States or interstate organizations participated.

- EPA met with OMB and utility representatives and other Federal agencies (the Department of Energy, the Small Business Administration, the Tennessee Valley Authority, the National Oceanic and Atmospheric Administration's National Marine Fisheries Service and the Department of Interior's U.S. Fish and Wildlife Service).

- EPA received more than 130 comments on the Phase I proposed rule and Notice of Data Availability (NODA). In some cases these comments have informed the development of the Phase II rule proposal. State and local government representatives from the following States submitted comments: Alaska, California, Florida, Louisiana, Maryland, Michigan, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, and Texas. In addition, EPA received more than 170 comments on the Phase II proposed rule and NODA, including comments from State and local government representatives from Arkansas, Alabama, Indiana, Tennessee, and Rhode Island.

- On May 23, 2001, EPA held a day-long forum to discuss specific issues associated with the development of regulations under section 316(b). At the meeting, 17 experts from industry, public interest groups, States, and academia reviewed and discussed the Agency's preliminary data on cooling water intake structure technologies that are in place at existing facilities and the costs associated with the use of available technologies for reducing impingement and entrainment. Over 120 people attended the meeting.

In the spirit of this Executive Order and consistent with EPA policy to promote communications between EPA and State and local governments, the preamble to the proposed Phase II rule specifically solicited comment from State and local officials.

B6-5 Executive Order 13158: Marine Protected Areas

Executive Order 13158 (65 FR 34909, May 31, 2000) requires EPA to "expeditiously propose new science-based regulations, as necessary, to ensure appropriate levels of protection for the marine environment." EPA may take action to enhance or expand protection of existing marine protected areas and to establish or recommend, as appropriate, new marine protected areas. The purpose of the Executive Order is to protect the significant natural and cultural resources within the marine environment, which means "those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands thereunder, over which the United States exercises jurisdiction, consistent with international law." EPA expects that the final Phase II Existing Facilities Rule will advance the objective of Executive Order 13158.

Marine protected areas (MPAs) include designated areas with varying levels of protection, from fishery closure areas, to aquatic National Parks, Marine Sanctuaries, and Wildlife Refuges (NOAA, 2002). The Departments of Commerce and the Interior are developing an inventory of MPAs in the U.S. that are protected and managed under Federal, State, Territorial, Tribal, or local laws. This list has not been completed, but it currently includes 32 Federal sites in the New England region, 31 in the Middle Atlantic region, 43 in the South Atlantic region, 45 in the Gulf of Mexico region, 12 in the Caribbean region, 15 in the Great Lakes region, and 46 in the U.S. West Coast region. Examples of marine protected areas include the Great Bay National Wildlife Refuge in New Hampshire, the Cape Cod Bay Northern Right Whale Critical Habitat in Massachusetts, the Narragansett Bay National Estuarine Research Reserve in Rhode Island, Everglades National Park and the Tortugas Shrimp Sanctuary in Florida, and the Point Reyes National Seashore in California.

Marine protected areas can help address problems related to the depletion of marine resources by prohibiting, or severely curtailing, activities that are permitted or regulated by law outside of marine protected areas. Such activities include oil exploration, dredging, dumping, fishing, certain types of vessel traffic, and the focus of section 316(b) regulation, the impingement and entrainment of aquatic organisms by cooling water intake structures.

Impingement and entrainment affects many kinds of aquatic organisms, including fish, shrimp, crabs, birds, sea turtles, and marine mammals. Aquatic environments are harmed both directly and indirectly by impingement and entrainment of these organisms. In addition to the harm that results from the direct removal of organisms by impingement and entrainment, there are the indirect effects on aquatic food webs that result from the impingement and entrainment of organisms that serve as prey for predator species. There are also cumulative impacts that result from multiple intake structures operating in the same local area, or when multiple intakes affect individuals within the same population over a broad geographic range.

Decreased numbers of aquatic organisms resulting from the direct and indirect effects of impingement and entrainment can have a number of consequences for marine resources, including impairment of food webs, disruption of nutrient cycling and energy transfer within aquatic ecosystems, loss of native species, and reduction of biodiversity. By reducing the impingement and entrainment of aquatic organisms, the final Phase II Existing Facilities Rule will not only help protect individual species but also the overall marine environment, thereby advancing the objective of Executive Order 13158 to protect marine areas.

B6-6 Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 6, 2000) requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian Tribes, on the relationship between the Federal government and the Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes." This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes, as specified in Executive Order 13175. EPA's analyses show that no facility subject to this final rule is owned by tribal governments. This final rule does not affect Tribes in any way in the foreseeable future. Accordingly, the requirements of Executive Order 13175 do not apply to this rule.

B6-7 Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211, ("Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001)) requires EPA to prepare a Statement of Energy Effects when undertaking regulatory actions identified as "significant energy actions." For the purposes of Executive Order 13211, "significant energy action" means:

> "any action by an agency (normally published in the Federal Register) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking:
>
> (1) (i) that is a significant regulatory action under Executive Order 12866 or any successor order, and
> (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or
>
> (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs (OIRA) as a significant energy action."

For those regulatory actions identified as "significant energy actions," a Statement of Energy Effects must include a detailed statement relating to (1) any adverse effects on energy supply, distribution, or use (including a shortfall in supply, price increases, and increased use of foreign supplies), and (2) reasonable alternatives to the action with adverse energy effects and the expected effects of such alternatives on energy supply, distribution, and use.

This rule is not a "significant energy action" as defined in Executive Order 13211 because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The final rule does not contain any compliance requirements that will:

- reduce crude oil supply in excess of 10,000 barrels per day;
- reduce fuel production in excess of 4,000 barrels per day;
- reduce coal production in excess of 5 million tons per day;
- reduce electricity production in excess of 1 billion kilowatt hours per day or in excess of 500 megawatts of installed capacity;
- increase energy prices in excess of 10 percent;
- increase the cost of energy distribution in excess of 10 percent;
- significantly increase dependence on foreign supplies of energy; or
- have other similar adverse outcomes, particularly unintended ones.

Of the potential significant adverse effects on the supply, distribution, or use of energy (listed above) only a few apply to the final Phase II rule. Through increases in the cost of generating electricity and shifts in the types of generators employed, the final Phase II rule might affect (1) the production of coal, (2) the production of electricity, (3) the amount of installed capacity, (4) energy prices, and (5) the dependence on foreign supplies of energy. EPA used the results from its electricity market model analysis (see Chapter B3) to analyze the final rule for each of these potential effects.

❖ *Production of coal*

EPA estimates that this final rule will decrease the annual use of coal for electricity generation by 82.3 trillion Btu (TBtu), or 0.4 percent. This reduction converts to 4.07 million tons of coal per year or 11,150 tons of coal per day.[1] Assuming that a reduction in the use of coal for electricity generation results in a similar reduction in coal production, EPA concludes that this rule will not have a significant impact on the national production of coal as defined by the thresholds listed above.

❖ *Production of electricity*

EPA's electricity market analysis did not allow for an explicit consideration of the changes in the production of electricity. However, based on the small effects on installed capacity and electricity prices, EPA concludes that this final rule will not reduce electricity production in excess of 1 billion kilowatt hours per day.

❖ *Installed capacity*

The final rule does not contain requirements that will permanently reduce installed capacity, for example through parasitic losses or auxiliary power requirements. However, the rule does contain requirements that may lead to one-time temporary downtimes of steam electric generators subject to this rule, ranging from two to eleven weeks. EPA estimates that approximately 100 facilities, accounting for 70,000 megawatts (MW) of generating capacity, will experience such downtimes. However, EPA's analyses indicate that these downtimes will not have a significant adverse effect on the supply, distribution, or use of energy (see Chapter B3 of the Final EBA). In addition, EPA estimates that this rule will lead to only 152 MW in incremental permanent capacity closures, well below the 500 MW impact threshold.

❖ *Energy prices*

The final rule will not significantly affect energy prices in either the long run or the short run. EPA estimates that, in the long run, energy prices will rise by less than one percent in all but two North American Electric Reliability Council (NERC) regions. The Electric Reliability Council of Texas (ERCOT) is estimated to have the largest increase in electricity prices with 5.8 percent in 2010 and 1.3 percent in 2013. The Florida Reliability Coordinating Council (FRCC) is estimated to experience electricity price increases of 1.3 percent in 2013 and 1.6 percent in 2020. In the short run (2008), energy prices are estimated to rise between 0.4 and 3.0 percent in all regions. EPA estimates that five regions will experience increases of less than 0.7 percent while five regions will experience increases between 1.1 and 3.0 percent. No region will experience energy price increases of more than 10 percent as a result of the final Phase II rule.

❖ *Dependence on foreign supplies of energy*

EPA's electricity market analysis did not allow for an explicit consideration of the effects of this final rule on foreign imports of energy. However, this rule only affects electricity generators, which are generally not subject to significant foreign competition. (Only Canada and Mexico are connected to the U.S. electricity grid, and transmission losses are substantial when electricity is transmitted over long distances.) In addition, the effects on installed capacity and electricity prices, are

[1] This conversion assumes an average energy content of 10,115 Btu per pound of coal (U.S. DOE, 2000).

estimated to be small. EPA therefore concludes that this final rule will not significantly increase dependence on foreign supplies of energy.

Based on these analyses, EPA concludes that this final rule will have minimal energy effects at a national and regional level. As a result, EPA did not prepare a Statement of Energy Effects. For more detail on effects of this final rule on energy markets, see *Chapter C3: Electricity Market Model Analysis*.

B6-8 Paperwork Reduction Act of 1995

The Paperwork Reduction Act of 1995 (PRA) (superseding the PRA of 1980) is implemented by the Office of Management and Budget (OMB) and requires that agencies submit a supporting statement to OMB for any information collection that solicits the same data from more than nine parties. The PRA seeks to ensure that Federal agencies balance their need to collect information with the paperwork burden imposed on the public by the collection.

The definition of "information collection" includes activities required by regulations, such as permit development, monitoring, record keeping, and reporting. The term "burden" refers to the "time, effort, or financial resources" the public expends to provide information to or for a Federal agency, or to otherwise fulfill statutory or regulatory requirements. PRA paperwork burden is measured in terms of annual time and financial resources the public devotes to meet one-time and recurring information requests (44 U.S.C. 3502(2); 5 C.F.R. 1320.3(b)).

Information collection activities may include:

- reviewing instructions;
- using technology to collect, process, and disclose information;
- adjusting existing practices to comply with requirements;
- searching data sources;
- completing and reviewing the response; and
- transmitting or disclosing information.

Agencies must provide information to OMB on the parties affected, the annual reporting burden, the annualized cost of responding to the information collection, and whether the request significantly impacts a substantial number of small entities. An agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a currently valid OMB control number.

EPA's estimate of the information collection requirements imposed by the final Phase II regulation are documented in the Information Collection Request (ICR) which accompanies this regulation (U.S. EPA, 2004).

B6-9 National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995, Pub L. No. 104-113, Sec. 12(d) directs EPA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standard bodies. The NTTAA directs EPA to provide Congress, through the Office of Management and Budget (OMB), explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This final rule does not involve such technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

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